IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

CRL.A.No. 1573 of 2006()

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AGAINST THE JUDGEMENT/ORDER IN CRLP.394/2006 Dated 04/08/2006
CC.138/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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APPELLANT: COMPLAINANT

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SMT.SABITHA SATHEESAN,
KRISHNA BHAVAN, HOSPITAL ROAD,
KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: ACCUSED AND STATE

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1. K.B.REGHUNATHAN,
MATHA HOTEL, TALUK CUTCHERRY JUNCTION,
KOLLAM.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.S.SANTHOSH KUMAR
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**V.RAMKUMAR, J.**

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**Crl.A. No. 1573 of 2006**

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**Dated this the 12th day of December, 2007**

**JUDGMENT**

The appellant is the complainant in C.C. No.138 of 2003 on the file of the J.F.C.M-II, Kollam for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act') involving a cheque for a sum of Rs. 50,000/- allegedly borrowed on 21.11.01. The court below as per judgment dated 6.7.06 acquitted the accused on technical grounds which are unsustainable. Hence this appeal.

2. I heard the learned counsel for the appellant and the learned counsel for the 1st respondent/ accused.

3. The learned counsel appearing for the accused prayed for six months' time to pay the cheque amount. The learned counsel appearing for the appellant submitted that four months' time can be granted to the accused to pay the cheque amount.

4. Considering the facts and circumstances of this case, I am inclined to grant five months' time to the 1st respondent-accused to pay the cheque amount. Accordingly C.C.No.138 of

2003 before the J.F.C.M-II, Kollam will stand allowed and the 1st respondent-accused shall stand convicted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

5. The accused is sentenced to pay a fine of Rs.50,000/- (Rupees fifty thousand only) which shall be deposited before the trial court within **five** months from today and on default to make the payment, he shall suffer simple imprisonment for three months. The fine amount shall be paid as compensation to the appellant- complainant under Section 357(1) Cr.P.C.

This Appeal is disposed of confirming the conviction but modifying the sentence as above.

**V. RAMKUMAR, JUDGE.**

sj